IN THE DISTRICT COURT OF PAWNEE COUNTY
STATE OF OKLAHOMA

JAMES ADAMS, on behalf of himself and other Oklahoma citizens similarly situated, Plaintiff,	)	
v.	)	**Case No.** CJ-2016-78
EAGLE ROAD OIL LLC, CUMMINGS OIL COMPANY, and JOHN DOES 1 through 25, Defendants.	)	FILED In the District Court PAWNEE COUNTY, OKLAHOMA MAY 17 2016 JANET DALLAS, Court Clerk BY ____ DEPUTY

CLASS ACTION PETITION

COMES NOW Plaintiff James Adams on behalf of himself and the Class of similarly situated Oklahoma citizens (defined below), and for their class action petition against Defendants state:

NATURE OF ACTION

1. By disposing of fracking wastewater deep into the earth, Defendants introduced contaminants into the natural environment that caused an adverse change to it in the form of unnatural seismic activity. In other words, due to Defendants' pollution of the environment they caused the man-made earthquakes at issue in this case.

2. This is an action to recover Plaintiff's and the Class members' damages proximately caused by Defendants' pollution of the environment within and around Pawnee, Oklahoma through the disposal of fracking wastewater with injection wells, which are the pollutants.

Exhibit 1

3. Plaintiff and the Class seek damages, joint and severally from the Defendants, in the form of the following:

a. Physical damages to real and personal property;

b. market value losses to their real property;

c. emotional distress; and,

d. punitive damages.

PARTIES

4. Plaintiff James Adams is a citizen of Oklahoma. He is also a citizen and resident of Pawnee, Pawnee County, Oklahoma.

5. Defendant Eagle Road Oil LLC ("Eagle Road") is a citizen of Oklahoma. It owns conducts oil and gas operations in this County, and more specifically, owns and operates the wastewater disposal well at issue in this case. Its principal place of business is at 321 South Boston, Suite 300, Tulsa, Oklahoma 74103.

6. Defendant Cummings Oil Company ("Cummings") is a citizen of Oklahoma. It conducts oil and gas operations in this County, and more specifically, owns and operates the wastewater disposal wells at issue in this action. Cummings has its principal place of business at 5400 N. Grand Blvd., Suite 100, Oklahoma City, Oklahoma 73112.

7. John Does 1 – 25 are other Oklahoma oil and gas companies that have engaged in injection well operations in and around Pawnee, which have also contributed to the earthquakes and resulting damages to Plaintiff and the Class members.

8. Eagle Road, Cummings, and John Does 1-25 are collectively referred to in this petition as "Defendants."

JURISIDICTION AND VENUE

9. Jurisdiction in this Court is proper.

10. This Court also has personal jurisdiction over Defendants as they are citizens of Oklahoma, do substantial business in the State of Oklahoma and Pawnee County, and further, operate the wastewater disposal wells at issue within this judicial district.

11. Venue is proper in this Court as a substantial part of the events giving rise to this claim occurred here, and Plaintiff is a citizen and resident of Pawnee County.

FACTUAL ALLEGATIONS

12. In recent years, thousands of earthquakes have occurred in Oklahoma.

13. In fact, Oklahoma is the most seismically active state in the continental United States.

14. Scientists have tied these earthquakes to the disposal of wastewater from fracking operations, which the oil and gas industry uses to release trapped oil and gas.

15. Over the years, the oil and gas industry has issued public statements to hide the seismic problems it is creating, and in fact continued a mantra that their operations did not cause earthquakes.

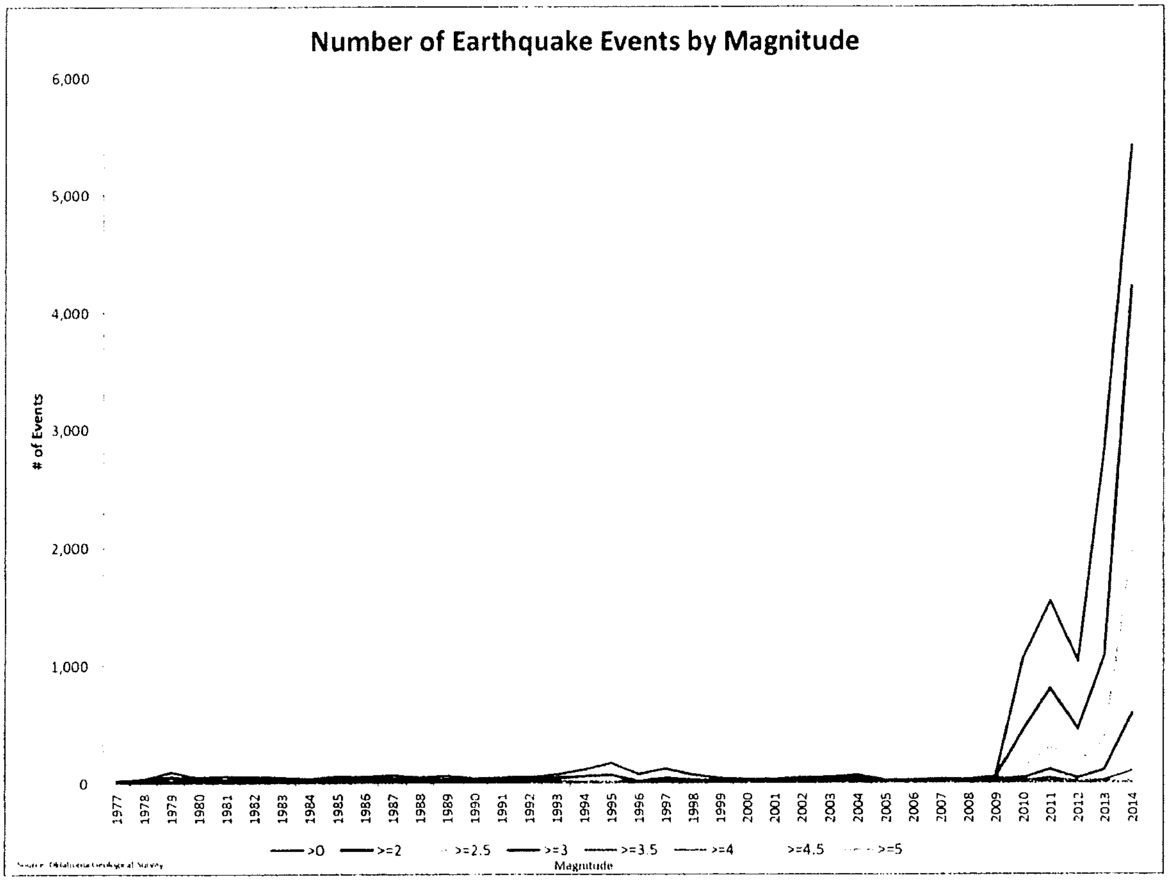
16. In truth, Oklahoma's earthquakes over the past five or so years have been caused by the oil and gas industry's disposal of fracking related waste. Some have termed these earthquakes as "induced," "man-made," "human-made," or "frackquakes."

17. The waste fluids generated from fracking are mostly disposed of by injecting the wastewater fluids back into the earth under extreme pressure in what are usually called

wastewater disposal wells or injection wells. This process of pollution causes earthquakes, and indeed, have caused the earthquakes shaking Oklahoma since at least 2011.

18. In fact, the number of earthquakes in Oklahoma has increased more than 300 fold, from a maximum of 167 before 2009 to 5,838 in 2015.

19. As the number of earthquakes has increased, so has their severity. For example, the number of magnitude 3.5 earthquakes has increased fifty fold from 4 in 2009 to 220 in 2015. See below:


Number of Earthquake Events by Magnitude
# of Events
6,000
5,000
4,000
3,000
2,000
1,000
0
1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014
>0 >=2 >=2.5 >=3 >=3.5 >=4 >=4.5 >=5
Magnitude

20. These waste-induced earthquakes have toppled historic towers, caused parts of houses to fall and injure people, cracked basements, and shattered nerves, as people fear there could be worse to come.

21. On March 28, 2016, and revised on June 17, 2016, the United States Geological Survey ("USGS") published a study quantifying these risks. It found that the earthquake risks in Oklahoma have risen rapidly as a result of deep disposal of production wastes. Oklahoma earthquake risks are now the highest in the nation. Maps included in the report show a broad swathe of the State of Oklahoma has a 5 to12% likelihood of a highly damaging earthquake in the next year. Petersen, M.D., Mueller, C.S., Moschetti, M.P., Hoover, S.M., Llenos, A.L., Ellsworth, W.L., Michael, A.J., Rubinstein, J.L., McGarr, A.F., and Rukstales, K.S., 2016, 2016 One-year seismic hazard forecast for the Central and Eastern United States from induced and natural earthquakes: U.S. Geological Survey Open-File Report 2016–1035, 52 p., http://dx.doi.org/10.3133/ofr20161035.

22. On September 3, 2016, these scientists' prediction that a more damaging earthquake to Oklahoma was coming proved to be true.

23. On that day, a magnitude-5.8 earthquake shattered Pawnee, Oklahoma. The earthquake's epicenter was about 15 km northwest of the town of Pawnee.

24. This was the largest earthquake that had ever hit Oklahoma.

25. A magnitude-5.8 earthquake is a big one. Oklahoma Geological Survey's Director Jeremy Boak said, "Any time you have a big earthquake like that, you worry about the aftershocks," Boak said. "How big they'll be, how many there will be."

26. All segments of Oklahoma's government, from the Governor to the Director of OGS, agree that Pawnee's 5.8m earthquake was induced by Defendants' wastewater disposal operations and from the injection wells they operate nearby.

27. The 5.8m earthquake near Pawnee on September 3, 2016, was not a naturally occurring earthquake, or an act of God. Instead, the Defendants' pollution of the environment caused it, and the other earthquakes that followed.

28. In the area around Pawnee, there were at least 41 shocks involving magnitude-2.5+ earthquakes before the end of September, 2016.

29. These quakes ranged in magnitude from 2.5m to 3.6, and have all been identified by USGS and shown in the following table:

TIME	MAG	PLACE
2016-09-26T09:09:05.500Z	2.5	13km NW of Pawnee, Oklahoma
2016-09-23T08:28:17.800Z	3	12km NW of Pawnee, Oklahoma
2016-09-18T21:30:52.300Z	2.7	5km N of Pawnee, Oklahoma
2016-09-16T23:02:23.400Z	2.5	13km NW of Pawnee, Oklahoma
2016-09-16T22:28:50.700Z	2.7	10km NW of Pawnee, Oklahoma
2016-09-12T21:39:14.500Z	3	14km NW of Pawnee, Oklahoma
2016-09-12T09:57:28.900Z	2.6	8km NNW of Pawnee, Oklahoma
2016-09-12T05:54:12.700Z	3	8km NNW of Pawnee, Oklahoma
2016-09-11T04:57:16.300Z	2.9	12km NW of Pawnee, Oklahoma
2016-09-10T17:26:45.800Z	2.5	13km NW of Pawnee, Oklahoma
2016-09-09T20:28:01.100Z	2.6	10km NW of Pawnee, Oklahoma
2016-09-08T01:54:16.100Z	2.5	11km NW of Pawnee, Oklahoma
2016-09-07T11:17:39.300Z	2.6	11km NW of Pawnee, Oklahoma
2016-09-07T03:11:55.100Z	2.7	13km NW of Pawnee, Oklahoma
2016-09-04T18:08:11.600Z	2.7	10km NNW of Pawnee, Oklahoma
2016-09-04T16:37:08.100Z	2.8	11km NW of Pawnee, Oklahoma
2016-09-04T12:56:04.900Z	3	11km NW of Pawnee, Oklahoma
2016-09-04T12:16:46.800Z	2.9	12km NW of Pawnee, Oklahoma
2016-09-04T08:48:26.500Z	2.5	13km NW of Pawnee, Oklahoma
2016-09-04T05:44:34.400Z	2.5	9km NNW of Pawnee, Oklahoma
2016-09-04T03:15:56.400Z	3.1	11km NW of Pawnee, Oklahoma
2016-09-03T23:56:36.600Z	3	9km NNW of Pawnee, Oklahoma
2016-09-03T23:17:26.500Z	2.6	7km N of Pawnee, Oklahoma
2016-09-03T18:07:04.400Z	2.5	8km NNW of Pawnee, Oklahoma
2016-09-03T15:31:40.900Z	3.4	11km NW of Pawnee, Oklahoma
2016-09-03T15:25:00.500Z	2.9	9km NNW of Pawnee, Oklahoma
2016-09-03T14:56:32.000Z	2.6	9km NNW of Pawnee, Oklahoma
2016-09-03T14:47:04.200Z	3.3	9km NNW of Pawnee, Oklahoma
2016-09-03T14:35:30.800Z	2.6	13km NW of Pawnee, Oklahoma
2016-09-03T14:07:16.900Z	2.5	9km NW of Pawnee, Oklahoma
2016-09-03T14:05:49.200Z	2.6	9km NW of Pawnee, Oklahoma
2016-09-03T13:49:37.500Z	2.5	9km NW of Pawnee, Oklahoma
2016-09-03T13:06:06.700Z	2.6	13km NW of Pawnee, Oklahoma
2016-09-03T12:58:37.800Z	3.6	13km NW of Pawnee, Oklahoma
2016-09-03T12:57:36.200Z	2.6	12km NW of Pawnee, Oklahoma
2016-09-03T12:39:48.800Z	2.7	11km NW of Pawnee, Oklahoma
2016-09-03T12:36:18.000Z	2.5	11km NW of Pawnee, Oklahoma
2016-09-03T12:32:02.300Z	2.6	9km NNW of Pawnee, Oklahoma
2016-09-03T12:21:25.200Z	2.7	10km NNW of Pawnee, Oklahoma
2016-09-03T12:18:54.000Z	2.6	9km NNW of Pawnee, Oklahoma
2016-09-03T12:16:22.200Z	3.3	3 9km NNW of Pawnee, Oklahoma

30. Defendants' pollution of the environment around Pawnee, through their disposal of fracking wastewater with injection wells, caused the 5.8m earthquake on September 3rd and all of the other seismicity shown in the table above.

31. Moreover, the quakes around Pawnee continued into October and November, 2016. In fact, there have been eleven more earthquakes, and another substantial earthquake of 4.5m shook the areas around Pawnee on November 2, 2016.

32. The following table shows the earthquakes near Pawnee in October and November, 2016, including the 4.5m earthquake:

TIME	MAG	PLACE
2016-11-14T14:41:50.710Z	3.4	15km W of Cleveland, Oklahoma
2016-11-05T15:40:31.330Z	2.9	2km E of Pawnee, Oklahoma
2016-11-05T09:39:43.990Z	3.7	13km ESE of Pawnee, Oklahoma
2016-11-02T15:10:43.700Z	3.1	12km ESE of Pawnee, Oklahoma
2016-11-02T08:57:02.590Z	2.8	12km ESE of Pawnee, Oklahoma
2016-11-02T04:26:54.200Z	4.5	14km ESE of Pawnee, Oklahoma
2016-10-29T06:06:02.580Z	3.3	9km NW of Pawnee, Oklahoma
2016-10-21T16:50:22.000Z	2.6	12km NW of Pawnee, Oklahoma
2016-10-19T12:04:51.630Z	2.7	11km NW of Pawnee, Oklahoma
2016-10-09T12:23:05.100Z	3.7	11km NW of Pawnee, Oklahoma
2016-10-01T10:58:31.300Z	2.9	8km NNW of Pawnee, Oklahoma

33. All of these earthquakes were also caused by Defendants' pollution of the environment around Pawnee, through their disposal of fracking wastewater with injection wells.

CLASS ALLEGATIONS

34. Plaintiff realleges each of the preceding paragraphs, and by this reference incorporates each such paragraph as though set forth here in full.

35. Plaintiff brings this action, on behalf of himself and all others similarly situated, as a class action pursuant to 12 O.S. § 2023.

36. The Class that Plaintiff seeks to represent (the "Class") is defined as follows:

a) Citizens of Oklahoma;

b) owning a home or business in Pawnee County, Creek County or Noble County (hereafter, the "Class Area");

c) during the dates of seismic activity within the Class Area between September 3, 2016 to present (the "Class Period");

d) excluded from the Class are all Class member properties on exclusive federal and/or tribal land; and,

e) excluded from the Class are Defendants and their officers and directors, and the judge presiding over this action and his/her immediate family members.

37. Plaintiff reserves the right to amend the definition of the Class if discovery and further investigation reveals that the Class should be expanded or otherwise modified.

38. This action is brought and properly may be maintained as a class action pursuant to 12 O.S. § 2023, and satisfies the requirements of its provisions.

Numerosity

39. Recent media outlets have reported hundreds of homes and businesses were damaged just by the 5.8m earthquake striking the area on September 3, 2016.

40. These human-made earthquakes are continuing in the Class Area, and thus, more properties are likely to suffer damages.

41. The Class Area includes several counties in Oklahoma where thousands of Oklahoma's citizens reside in their homes and operate businesses.

42. As such, the Class is sufficiently numerous and has members scattered over several counties so as to make joinder of all members of the Class in a single action impracticable, and therefore, the resolution of their claims through the procedure of a class action will be to the benefit of the parties and the Court.

Commonality

43. Plaintiff's claims raise issues of fact or law which are common to the members of the putative Class. These common questions include, but are not limited to:

(a) Whether Defendants' disposal well operations within the Class Area caused earthquakes in the Class Area;

(b) whether these induced earthquakes caused damage to the personal and real property of Plaintiff and the members of the Class;

(c) whether Defendants owed a duty to the Plaintiff and the members of the putative Class;

(d) whether Defendants' conduct amounted to a nuisance;

(e) whether Defendants' conduct is an ultra-hazardous activity;

(f) whether Defendants' operations were negligently performed;

(g) whether Defendants caused a trespass;

(h) whether Plaintiffs and the members of the putative Class have suffered damages proximately caused by Defendants' wastewater disposal operations; and

(i) whether a judgment including punitive damages is appropriate.

Typicality

44. Plaintiff's claims are typical of the claims of the other members of the Class they seek to represent because at bottom, all of the claims center upon whether Defendants' wastewater injection operations have caused the seismicity within the Class Area during the Class Period.

Adequacy

45. Plaintiff is interested in the outcome of this litigation and understands the importance of adequately representing the Class.

46. Plaintiff will fairly and adequately protect the interests of the Class sought to be certified.

47. Plaintiff is an adequate representative of the Class because he has no interests that are adverse to the interests of the members of the Class. Plaintiff is committed to the vigorous prosecution of this action and, to that end, Plaintiff has retained counsel competent and experienced in handling class-action and complex tort litigation, which are also qualified to adequately represent the Class.

Predominance

48. Questions of law or fact common to the members of the Class predominate over questions affecting only individual members.

Superiority

49. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. The predicate issues relate to Defendants' wastewater injection operations, actions and activities, and whether these activities pose a nuisance, are an ultra-hazardous activity, were negligently performed, or caused trespasses. The focus of this action will be on the common and uniform conduct of Defendants in conducting their wastewater injection operations during the Class Period and within the Class Area.

50. Absent class action relief, the putative Class Members would be forced to prosecute hundreds of similar claims in different district court venues. Such an event would cause tremendous amounts of waste of judicial resources, but the prosecution of these claims as a class action will promote judicial economy.

51. The prosecution of separate actions by individual members of the Class would create a risk of:

a. inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for the Defendants; and

b. adjudications with respect to individual members of the Class, which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

52. Plaintiff is not aware of any difficulty which will be encountered in the management of this litigation which should preclude its maintenance as a class action.

CAUSES OF ACTION

COUNT I

ABSOLUTE LIABILITY

53. Plaintiff and the Class hereby re-allege and incorporate the foregoing Paragraphs as if fully set forth herein, word-for-word.

54. Defendants' actions described above are ultrahazardous activities that necessarily involve a risk of serious harm to a person that cannot be eliminated by the exercise of the utmost care and is not a matter of common usage.

55. As a direct and proximate result of Defendants' ultrahazardous activities, Plaintiff and the Class members have suffered damages, to which Defendants are strictly liable.

56. As a direct and proximate result of Defendants' ultrahazardous activities, Plaintiff and Class members have suffered damages to their homes in the form of physical damages and market losses, and also damages to their personal property.

57. As a direct and proximate result of Defendants' ultrahazardous activities, Plaintiff and Class members have suffered and continue to suffer emotional harm.

COUNT II

NEGLIGENCE

58. Plaintiff and the Class hereby re-allege and incorporate the foregoing Paragraphs, as if fully set forth herein, word-for-word.

59. The Defendants owed a duty to Plaintiff and the Class to use ordinary care and not to operate or maintain their injection wells in such a way as to cause or contribute to seismic activity. Defendants, experienced in these operations, were well aware of the connection between injection wells and seismic activity, and acted in disregard of these facts.

60. As a direct and proximate result of these facts, omissions, and fault of the Defendants, the Plaintiff and the Class have suffered injuries reasonably foreseeable to the Defendants in the form of property damages to their homes (in the form of physical damages and market losses), damages to their personal property, and emotional harm that is continuing.

COUNT III

PRIVATE NUISIANCE

61. Plaintiff and the Class re-allege and incorporate the foregoing Paragraphs, as if fully set forth herein, word-for-word.

62. Defendants' conduct constitutes a private nuisance.

63. Plaintiff and the Class have property rights and are privileged regarding the use and enjoyment of their home, land and businesses. Defendants' actions and operations as described above have unlawfully and unreasonably interfered with those rights and privileges.

64. Plaintiff and the Class have suffered harm and damages because of Defendants' creation of a nuisance, including:

a. Damages to their personal and real property;

b. interference with their use and enjoyment of property;

c. annoyance, discomfort and inconvenience on their property caused by Defendants' nuisance;

d. loss of peace of mind and emotional distress; and

e. diminution of property value.

COUNT IV

TRESPASS

65. Plaintiff and the Class re-allege and incorporate the foregoing Paragraphs, as if set forth herein, word-for-word.

66. Plaintiff and the Class are and have been lawfully entitled to possession of their property.

67. Defendants, without the permission or consent of Plaintiff and the Class and without legal right, intentionally engaged in activities that resulted in concussions or vibrations entering Plaintiff's and the Class members' property. Such unauthorized invasion of Plaintiff's and the Class members' property constitutes a trespass.

68. Because of Defendants' trespass, Plaintiffs and the Class have suffered damages including:

a. Damages to personal and real property;

b. interference with their use and enjoyment of property;

c. annoyance, discomfort and inconvenience on their proper[illegible] Defendants' trespass;

d. loss of peace of mind and emotional distress; and

e. diminution of real estate property value.

PUNITIVE DAMAGES

69. The Defendants' actions, in knowingly causing seismic activity as a result of their injection well operations, constitute wanton or reckless disregard for public or private safety, and are thus subject to a claim for punitive damages, for which Plaintiff and the Class seek in an amount sufficient to punish the Defendants and to deter them from such conduct in the future.

DEMAND FOR JURY TRIAL

70. Plaintiff and the Class respectfully demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the Class respectfully requests the following relief:

i. A joint and several judgment against Defendants awarding real and personal property damages (for physical damage and market loss), and emotional harm caused by and continuing by the conduct of the Defendants in an amount to be proven at trial;

ii. punitive damages;

iii. pre-judgment and post-judgment interest; and,

iv. all other relief to which Plaintiff and the Class are entitled or that the Court deems just and proper.

DATED: November 17th, 2016

Respectfully Submitted,

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